



# **LEE'S SUMMIT**

LAW DEPARTMENT  
OFFICE OF THE CITY ATTORNEY

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February 13, 2019

TO: City Council

FROM: David Bushek, Chief Counsel of Economic Development & Planning

RE: Summary of the Summit Orchards Community Improvement District

## **Project and CID Summary**

- The proposed project area covers about 58 acres of vacant property located north of Chipman Road on the east and west sides of Ward Road.
- The total requested CID reimbursement is about \$9.03 million.
- The proposed maximum duration of the CID is 30 years.
- No blight finding is requested by the applicant, so the CID is only proposed to fund public improvements, along with related engineering and soft costs, that serve the CID area.
- Certain public improvements which are internal to the project can be treated as public improvements through CID ownership or through public easements allowing for public use, similar to how right-of-way functions, but these will not be located on City-owned property or right-of-way.
- The cooperative agreement will contain safeguards for the City with respect to the funding of internal CID improvements which are not dedicated to the City.

## **CID Operations**

- The District will be a separate political subdivision of the state, not a department of the City.
- The District will be governed by a 5-member Board of Directors. Initial directors are named in the petition and successor directors will be appointed by the Mayor with the consent of the City Council.
- The initial term of each director is either 2 or 4 years, as established by the initial appointments. Successors serve 4 year terms.
- Qualifications of a Director:
  - At least 18 years old
  - Resident of Missouri for at least 1 year prior to taking office
  - Business owner or property owner in the district, or a representative of a business owner or property owner in the district

- One of the five director seats will be permanently controlled by the City, with a City staff member or City elected official appointed to the City seat.

### Project Financing

- Developer provides the initial financing for all project costs through private lending, private equity, or debt issued by the CID.
- The CID may issue debt after City approval of the terms and conditions regarding the bond issuance.
- The CID will serve as a reimbursement source for designated project costs, as discussed below.

### CID Funding

- The District proposes a sales tax of up to one percent (1.0%).
- An election must occur for the sales tax to be imposed. The election occurs after the District is formed. The qualified voters in the election will be the property owners within the CID area. A majority of those property owners that cast ballots must approve the sales tax. The sales tax can be imposed in 1/8% increments, up to the maximum of 1%.
- The CID will serve as a reimbursement source for designated project costs, as discussed below, or as the source of funds to repay CID debt.

### CID Reimbursable Costs

The maximum amount of reimbursement will be about \$9.03 million, plus interest as provided in the cooperative agreement between the City and the CID. A proposed reimbursable project costs are:

|   | 2019                   | 2020          | 2021            | 2022            | 2023          |
|---|------------------------|---------------|-----------------|-----------------|---------------|
| <b>Projected CID Revenues</b>                       |                        | \$ 100,000.00 | \$ 300,000.00   | \$ 350,000.00   | \$ 500,000.00 |
| <b>Projected CID Expenditure (totals)</b>           | \$ 3,125,319.31        | \$ 781,329.83 | \$ 2,536,653.38 | \$ 2,536,653.38 |               |
| <b>Formation Costs</b>                              | \$ 50,000.00           |               |                 |                 |               |
| <b>Improvement Costs - Summit Orchards East</b>     |                        |               |                 |                 |               |
| 1. Infrastructure - Roads, utilities, and sidewalks | \$ 2,184,373.00        |               |                 |                 |               |
| 2. Landscape common spaces, entrance walls          | \$ 468,650.00          |               |                 |                 |               |
| 3. Signs in Monuments / Pylons (4)                  | \$ 103,000.00          |               |                 |                 |               |
| 4. Public Art with plazas                           | \$ 236,900.00          |               |                 |                 |               |
| 5. Contingency for Public Improvements (10%)        | \$ 299,292.30          |               |                 |                 |               |
| 6. Soft Costs for Public Improvements               | \$ 239,433.84          |               |                 |                 |               |
| 7. Construction Interest CM and development fee     | \$ 375,000.00          |               |                 |                 |               |
| <b>Subtotal - Summit Orchard East</b>               | <b>\$ 3,906,649.14</b> |               |                 |                 |               |
| <b>Improvement Costs - Summit Orchards West</b>     |                        |               |                 |                 |               |
| 1. Infrastructure - Roads, utilities, and sidewalks | \$ 3,462,964.68        |               |                 |                 |               |
| 2. Landscape West Side                              | \$ 175,100.00          |               |                 |                 |               |
| 3. Signs in Monuments / Pylons (1)                  | \$ 90,640.00           |               |                 |                 |               |
| 4. Public Art                                       | \$ -                   |               |                 |                 |               |
| 3. Contingency for Public Improvements (15%)        | \$ 559,305.70          |               |                 |                 |               |
| 6. Soft Costs for Public Improvements               | \$ 298,296.37          |               |                 |                 |               |
| 7. Construction Interest CM and development fee     | None                   |               |                 |                 |               |
| <b>Subtotal - Summit Orchard West</b>               | <b>\$ 487,000.00</b>   |               |                 |                 |               |
|   | \$ 5,073,306.76        |               |                 |                 |               |
| Operating / Administrative Costs                    |                        | \$ 10,000.00  | \$10,200.00     | \$10,404.00     | \$10,612.08   |
| Reserve   |                        | \$9,275.00    | \$9,275.00      | \$12,350.00     | \$12,350.00   |
| <b>Total Costs</b>                                  |                        |               |                 |                 |               |
|   | <b>\$ 9,029,955.90</b> |               |                 |                 |               |

## Maintenance of CID Public Improvements

The Cooperative Agreement includes provisions to ensure that the interior public improvements which will be funded by the CID but not dedicated to the City will be properly maintained for the life of the CID. The Petition presents these categories of CID Public Improvements:

- (1) the Internal Drives;
- (2) the Art Features;
- (3) the Public Landscape;
- (4) the Public Signage;
- (5) all sidewalks and pedestrian paths within the Development Area that are funded with CID Revenues.

The “Interior Drives” include the following improvements:

### In the Eastern portion of the District –

- the primary East-West Drive through the eastern portion of the Development Area
- the North-South drive connecting Chipman Road to the East-West Drive

### In the Western portion of the District

- Improvements to Outerview Road
- Donovan Road from Ward Road to Outerview Road

including all curbing, gutters, storm drainage, landscaping, sidewalks, signage and pedestrian areas and paths that are constructed for such improvements. These are improvements that can be funded by the CID as public improvements, but which are not traditional public improvements that the City would own or maintain. Instead, the primary obligation for maintenance of these improvements will lie with the Developer and the CID, and a property owners’ association if one is formed by Developer.

The Cooperative Agreement provides that the CID must annual fund up a **Maintenance Fund** to provide a source of funds to draw upon in the event that the Developer and the CID both fail to provide for maintenance of the Interior Drives. The annually budgeted amount for the Maintenance Fund will be \$9,275 per year when the Phase 1 improvements are completed and another \$3,075 per year, for a total **annual amount of \$12,350**, when the Phase 2 improvements are completed. These amounts have been proposed by Developer’s professional engineer and reviewed by the City’s Development Center.

In addition, if the CID ever stops functioning properly due to mismanagement or inactivity on the part of Developer, the CID or the property owners in the CID area, the City will have the ability through the appointment of successor directors to populate the CID director seats with City representatives who would then have majority control of the CID. This will help ensure that the CID is run properly for the intended duration, which will in turn help ensure that the interior drives and public open space public improvements which are funded by the CID will have proper long-term maintenance.